

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 2556 of 1997

Between:

M.V.V. Satyanandam S/o.M.Peraiah
R/o. Rajiv Nagar Hyderabad.

..... PETITIONER

AND

A.P. Legislative Assembly,

rep. by its Secretary, A.P. Legislative Assembly
Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring that Annexure-I of A.P. Legislative Service Rules, In so far as it imposes the condition of 2 years of service as section officer for promotion to the post of Assistant Secretary in the case of PS to Secretary to State Legislature when no such restriction is placed on the other feeder posts, as arbitrary, illegal and violative of Articles 14 & 21 of the Constitution of India and issue the consequential direction to the respondent to consider the petitioner for appointment to the post of Assistant Secretary from 15th April, 1995 or on such other date when petitioner's turn for promotion to the post of Assistant Secretary arose.

Counsel for the Petitioner: MR.NUTY RAM MOHAN RAO

Counsel for the Respondent: GP FOR HOME

The Court made the following:

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ORAL ORDER:

This writ petition is filed by the petitioner praying further issue writ of Mandamus declaring that Annexure-I of A.P. Legislature Service Rules, insofar as it imposes the condition of two years of service as Section Officer for promotion to the post of Assistant Secretary in the case of Personal Secretary to the Secretary of the State Legislature when no such restriction is placed on the other feeder posts, as arbitrary, illegal and violative of Articles 14 and 21 of the Constitution of India and issue the consequential direction to the respondent to consider the case of the petitioner for appointment to the post of Assistant Secretary from 15th April, 1995 or on such other date when his turn for promotion to the post of Assistant Secretary arose.

2. According to the petitioner, he was appointed as a Upper Division Stenographer by way of direct recruitment, by proceedings dated 4-9-1978. He was promoted to the Special Category Stenographer on 28-12-1991, and further as Personal Secretary to the Secretary of the State Legislature on 1-1-1994. It is stated that in the A.P. Legislature Service (Adhoc) Rules, 1983, (hereinafter referred as ‘the Rules’) for filling up the post of Assistant Secretaries the feeder posts are Section Officers,

Translators, Reporters and Personal Secretary to the Secretary of the State Legislature. It is also stated that as per the Rules, out of four vacancies of Assistant Secretaries, three are to be filled from the Section Officers/Personal Secretary, and one is to be filled from the category of Reporters and Translators. From among the Section Officers and Personal Secretaries, the posts are to be filled in the ratio of 19:1 i.e., after 19 Section Officers one Personal Secretary is to be promoted to the post of Assistant Secretary.

3. In the normal course, according to the petitioner his turn for promotion to the post of Assistant Secretary would arise in the seventh cycle of four vacancies each and in eighth cycle the first vacancy meant for Section Officer is to be allotted to the Personal Secretaries. Further, as per the Annexure-1 to the Rules, it was provided that for a Personal Secretary in order to get promotion one has to work as Section Officer for a period of two years while such restriction was not provided with reference to Reporters and Translators. According to the petitioner, the said restriction that the personal secretary has to work for a minimum period of two years as Section Officer is unreasonable and discriminatory. Therefore, the said proviso to class III of Annexure-1 is to be set aside by declaring the same as a discriminatory.

4. It is the case of the petitioner that as soon as he was promoted as Personal Secretary to the Secretary to State Legislature in the year 1994, vacancies under the category of Assistant Secretaries have arisen, and they were also filled. As the petitioner was the only and senior most candidate as Personal Secretary to the Secretary, and as he did not fulfill the requirement of working as Section Officer for a period of two years, his case was not considered, but the vacancy intended to the Personal Secretary to the Secretary was filled out of the Section Officers. Further, it is his case that subsequently the posts of Assistant Secretaries are proposed to be filled now. By doing so, the petitioner's name was empanelled at Sl. No.7, though he was entitled to be empanelled at Sl.No.1 in view of the fact that the case of the petitioner was not considered on the earlier occasion when the vacancies of Assistant Secretaries were filled up in the year 1995, as he did not fulfill the requisite qualification.

5. The learned Counsel for the petitioner also contended that as the requirement of working as a Section Officer for a period of two years was not provided with reference to the Reporters and Translators, such restriction imposed with reference

to the Personal Secretaries to the Secretary, is illegal and discriminatory. According to the learned Counsel, it is only against the said restriction, the petitioner was denied and deprived promotion in the year 1995. Had such restriction be not incorporated in the Rules, his case ought to have been considered in the year 1995 itself and he ought to have been promoted as Assistant Secretary in that year. Therefore, sought for a declaration that the said restriction imposed under the proviso in category three of Annexure-1 of the Rules, is illegal and discriminatory and therefore, to quash the said proviso as illegal.

6. On behalf of the respondent, a counter has been filed disputing and denying the allegations made by the petitioner. It is stated that as per the orders of the Governor of A.P. vide G.O.Rt.No.1031, Legislature (O.P.I) Secretariat, dated 4-9-2002, a Screening Committee was constituted for the purpose of recommending the names of eligible candidates to prepare a panel for promotions to the post of Assistant Secretary in the Legislature Secretariat. The Screening Committee has held its meeting on 7-9-2002, and considered the eligible candidates from all the feeder categories and recommended ten names for preparation of the panel for 2002-2003 as per the Rules. The case of the petitioner was also considered and his name was placed at Sl.No.7 in the said proposal, which was sent for approval of the A.P. Public Service Commission as required.

7. It is also stated in the counter that originally the Personal Secretaries to the Secretary were not having any promotion avenues, but the Government in the General Administration Department has taken a decision that a combined seniority list of Section Officers and Personal Secretaries to the Government appointed on or before 23-4-2004 in the A.P. Secretariat Service will be drawn up and only Personal Secretaries who have worked as Section Officers for two years would be considered as Assistant Secretary to the Government and further the ratio was also fixed for promotion between the personal secretaries and section officers in the ratio of 1:19. The said pattern was adopted in the year 1987 with reference to the Legislature Secretariat. It is also stated that the Personal Secretaries would not get enough experience to work as Assistant Secretaries as the nature of work which they discharge as a Personal Secretary varies with reference to the work, which they are expected to discharge as Assistant Secretaries. Therefore, it was made necessary that the Personal Secretaries should work for a period of two years in order to become eligible for promotion to the post of Assistant Secretary. The contention of

the respondent is that the pattern adopted is basing on the pattern that was evolved with reference to the secretariat staff of the State Government. Therefore, there is no illegality or any discrimination in providing such a restriction while including the category of personal secretaries as one of the feeder category for promotion.

8. Heard both the learned Counsel and considered the material on record.

9. The grievance of the petitioner is that a restriction has been incorporated under the Rules by a proviso to the Annexure to the Category III that with reference to the Personal Secretaries in order to get eligibility for promotion to the post of Assistant Secretaries, one has to work for a period of two years as Section Officer is illegal and discriminatory. The stand of the respondent, as stated earlier in the counter and in their contentions is that there was no promotional avenues originally with reference to the Personal Secretary for promotion to the post of Assistant Secretary, and it is only in the year 1983-1984 that a combined seniority list was prepared between the Section Officers and the Personal Secretaries in the Secretariat, and further a ratio was also provided for promotion to the post of Assistant Secretary and the same has already been adopted. Further, as it was provided even in the Rules that are applicable to the Secretariat of the State Government that the Personal Secretaries have to work as Section Officer for a period of two years in order to get eligibility, the same restriction was incorporated, while providing a promotional avenues to the Personal Secretaries.

10. Merely, because the petitioner was promoted in the year 1994 as Personal Secretary and his turn came up for promotion to the post of Assistant Secretary in the year 1995 by itself, the petitioner is not eligible for promotion even if such a restriction was not incorporated as he did not even put up the minimum service of two years or three years, as is required with reference to the Section Officers. Therefore, the petitioner is not entitled for promotion even in the year 1995 when the turn of the Personal Secretaries had come up.

11. Further, as already stated in the counter by the respondent that the restriction was imposed in order to get sufficient experience for the Personal Secretaries to discharge their functions as Assistant Secretaries. Therefore, such restriction would not be considered as discriminatory or illegal. As, in the counter it was already stated that the petitioner's case was already under consideration, as no further

promotions were affected after 1995, the petitioner cannot have any grievance. Further, even if the petitioner's turn has lapsed in the year 1995, he cannot claim that his name should be empanelled at SI.No.1 on the premise that he was denied his turn in the year 1995, as there is no such provision under the Rules. At the time of hearing it is represented that the petitioner has already been promoted as Assistant Secretary with effect from 1-4-2004.

12. In the above circumstances, the petition is devoid of merits and the same is accordingly dismissed. No costs.

S. ANANDA REDDY, J

Dated: 05-08-2004

ES/KVH

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary, A.P. Legislative Assembly, Hyderabad.
2. 2 CCs to Government Pleader for Home, High Court Buildings, Hyderabad (OUT).
3. 2 CD copies